In the Supreme Court of the United States

OCTOBER TERM, 1933

No. —

THE UNITED STATES OF AMERICA, APPELLANT

v.

BYRUM GIBSON AND CLAUDE CHAMBERS

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

MOTION TO ADVANCE

Now comes the Solicitor General and moves that the Court advance the above-entitled cause for hearing during the January session of the Court.

The question involved is whether the District Court, after the repeal of the Eighteenth Amendment to the Constitution of the United States by the adoption of the Twenty-first Amendment, had power to hear and determine cases involving, or to impose sentences for, violations of the National Prohibition Act and for conspiracies to violate the National Prohibition Act under Section 37 of the

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Criminal Code; or whether the repeal of the Eighteenth Amendment had the effect of releasing and extinguishing all penalties and criminal liabilities incurred under the National Prohibition Act, as amended and supplemented, or incurred under Section 37 of the Criminal Code by conspiring to violate the National Prohibition Act, as amended and supplemented.

After repeal of the Eighteenth Amendment to the Constitution of the United States, there remained pending on the dockets of the District Courts throughout the country a large number of indictments which charged both substantive violations of the National Prohibition Act and conspiracies to violate the National Prohibition Act. United States Attorneys seek advice concerning the disposition of such cases; and the Department is without judicial precedent to guide it under circumstances such as those attendant upon the repeal of an Amendment to the Constitution of the United States. An early hearing of this case will greatly facilitate the Department in a prompt disposal of the many pending cases, either by trial or by dismissal, as the law of this case may warrant.

Furthermore, the appeal in this case was taken by the United States under the Criminal Appeals Act, c. 2564, 34 Stat. 1246 (U.S.C., Title 18, Sec. 682), which provides that an appeal in the class of cases covered by that statute "shall be diligently

prosecuted and shall have precedence over all other cases."

Opposing counsel has been notified of this motion.

Respectfully submitted.

J. CRAWFORD BIGGS,
Solicitor General.

DECEMBER, 1933.

U. S. GOVERNMENT PRINTING OFFICE 1933